



Substitute House Bill No. 5181

Public Act No. 06-87

AN ACT CONCERNING PREPAID FUNERAL CONTRACTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 42-200 of the 2006 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2006*):

(a) For the purposes of this section and sections 42-201 to 42-206c, inclusive, as amended, "funeral service contract" means a contract which requires the payment of money or the delivery of securities in exchange for the final disposition of a dead human body, including funeral, burial or other services, or the furnishing of personal property or funeral merchandise in connection with any such disposition, wherein the use or delivery of such services, property or merchandise is not required immediately, "beneficiary" means the person for whom the goods or services purchased in a funeral service contract are to be provided, and "purchaser" means the person who signs the funeral service contract.

(b) A funeral service contract shall be in writing and shall contain the following:

(1) The name, address, telephone number and Social Security

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number of the beneficiary and the purchaser;

(2) The name, address, telephone number and license number of the funeral director for the funeral service establishment providing the goods or services;

(3) A list of the selected goods or services, if any;

(4) The amount of funds paid or to be paid by the purchaser for such contract, the method of payment and a description of how such funds will be invested and how such investments are limited to those authorized pursuant to subsection (c) of section 42-202, as amended by this act;

(5) A description of any price guarantees by the funeral service establishment or, if there are no such guarantees, a specific statement that the contract contains no guarantees on the price of the goods or services contained in the contract;

(6) The name and address of the escrow agent designated to hold the prepaid funeral services funds;

(7) A written representation, in clear and conspicuous type, that the purchaser should receive a notice from the escrow agent acknowledging receipt of the initial deposit not later than twenty-five days after receipt of such deposit by a licensed funeral director;

(8) A description of any fees to be paid from the escrow account to the escrow agent or any third party provider;

(9) A description of the ability of the purchaser or the beneficiary to cancel a revocable funeral service contract and the effect of cancelling such contract;

(10) For irrevocable contracts, a description of the ability of the beneficiary to transfer such contract to another funeral home; and

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(11) The signature of the purchaser or authorized representative and the licensed funeral director of the funeral service establishment.

(c) A funeral service establishment shall maintain a copy of all funeral service contracts entered into or assigned to such establishment and a list of each escrow account established pursuant to such contracts. Such list shall include the name and address of the escrow agent, the amount of funds deposited with such agent and the name and address of the purchaser of the funeral services contract. Such contracts shall be maintained by the funeral service establishment for a period of six years after the completion of the contracted services. Such establishment shall disclose such information, upon request, to the Commissioner of Public Health, the Commissioner of Consumer Protection or the Attorney General.

(d) A funeral service establishment shall notify the purchaser of each prepaid funeral contract with such establishment not later than ten days after any transfer of more than a fifty per cent ownership share of such establishment to another person or of the closure of such establishment.

Sec. 2. Section 42-202 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2006*):

(a) A licensed funeral service establishment shall deposit any money or securities which such establishment receives pursuant to a funeral service contract, and [within] not later than fifteen days [of] after its receipt of such money or securities, in one or more escrow accounts established in accordance with the provisions of this section. Not later than ten days after the initial deposit of such money or securities, the escrow agent shall notify the purchaser, in writing, of the agent's receipt of such initial deposit and the amount of such initial deposit. Such escrow agent shall notify the purchaser of any transfer of such funds or securities, except when such transfer is to pay for services as

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required by the funeral service contract. Such funds or securities shall not be transferred to an insurance contract without a description to the purchaser by the funeral director of any fees, costs or commissions associated with such insurance contract and without obtaining the written consent of the purchaser to such transfer.

(b) Each escrow account established pursuant to this section shall be administered and maintained by an escrow agent. The funeral service establishment which deposits money or securities in such escrow account shall appoint such agent who shall be one of the following: (1) A national banking association; (2) a state bank and trust company; (3) a federal or state chartered savings bank; (4) a federal or state chartered savings and loan association; (5) a licensed insurance company; [.] or (6) a registered broker-dealer. No such institution shall be appointed as an agent unless such institution is authorized by law to act as an escrow agent.

(c) Assets held in escrow accounts established pursuant to this section shall be invested in one or more of the following: (1) Deposit accounts insured by the Federal Deposit Insurance Corporation; (2) accounts insured against loss of principal by an agency or instrumentality of the United States government; (3) bonds in which savings banks in this state may, by law, invest; (4) bonds of the United States or any agency thereof or of this state or any municipality of this state; [or] (5) insurance contracts with an insurance company licensed by the state of Connecticut to offer such contracts and maintaining not less than a B plus rating for financial security by A.M. Best; or (6) any other deposit account [, insurance contract,] or security of a quality, safety and expense comparable to those set forth in this subsection.

(d) All interest, dividends and other income earned on the amounts deposited in an escrow account pursuant to this section shall be retained in such escrow account and credited, less any administration expenses, to the respective interests of those persons for whose benefit

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the escrow account is maintained. Amounts in an escrow account shall be removed from such account only as provided in sections 42-200 to 42-206, inclusive, as amended. Each party to a funeral service contract shall receive an annual statement of the amount credited to such party's escrow account. Such statement shall include the name and address of the escrow agent.

(e) If a purchaser of funeral services, property or merchandise defaults in making payments required under the terms of such contract, or if the purchaser or the person responsible for making funeral arrangements for a deceased beneficiary fails to have the funeral service establishment provide services, the funeral service establishment may retain any origination fee and any costs actually and reasonably incurred by such establishment in the performance of the contract as liquidated damages, provided the sum of the amount retained as an origination fee and the amount retained to pay for costs incurred by the funeral establishment in the performance of the contract shall not exceed an amount equal to five per cent of the amount in the escrow account at the time the purchaser of funeral services defaults in making such payments. The balance of any amount remaining in the escrow account shall be paid to such purchaser upon request.

(f) A person, firm or corporation licensed in accordance with the provisions of chapter 385 which enters into a funeral service contract shall furnish the agent of an escrow account established in accordance with the provisions of this section with the name of the purchaser of such services, property or merchandise, the address and name of the beneficiary of the funeral service contract and the amount contracted for, together with a copy of the contract listing the services, personal property or merchandise to be furnished by the funeral service establishment. Nothing in this section shall prohibit the commingling within an escrow account of the money or securities received under

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more than one funeral service contract for the purpose of management and investment of funds in such escrow account.

(g) A funeral service contract shall provide that, if the particular merchandise provided for in the contract is not available at the time of death, the funeral service establishment shall furnish merchandise similar in style and at least equal in quality of material and workmanship to the merchandise provided for in the contract.

Sec. 3. Section 42-207 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2006*):

An irrevocable funeral contract may be entered into in which the amount held in escrow may be disbursed only upon the death of the beneficiary, provided such a contract does not exceed five thousand four hundred dollars and all interest accumulates to the escrow account and is inaccessible to the beneficiary. Such irrevocable funeral contracts may be transferred from one funeral service establishment to another upon request of the beneficiary. The purchase of an irrevocable funeral contract shall not preclude an individual from purchasing other funeral contracts that are revocable, provided any such revocable funeral contract purchased by a Medicaid beneficiary may be revoked only upon written notice by the Medicaid beneficiary to the Commissioner of Social Services.

Approved May 30, 2006